

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY)	
Plaintiff,)	
)	
v.)	C.A. No. 05-108-KAJ
)	
VAN SCOY DIAMOND MINE OF)	
DELAWARE, INC., KURT VAN SCOY)	
AND DONNA VAN SCOY)	
)	
Defendants.)	

**PLAINTIFF WAYNE VAN SCOY'S
MOTION FOR SUMMARY JUDGMENT AGAINST
DEFENDANTS' CLAIMS OF INVALIDITY AND ABANDONMENT**

Plaintiff moves for summary judgment pursuant to F.R.Civ.P.56 in favor of Plaintiff and against Defendants' claims that the marks VAN SCOY DIAMOND MINE including United States Registration Nos. 1,140,958 and 1,140,711 are invalid and abandoned. The moving papers show there are no disputed facts and as a matter of law judgment should be entered in favor of Plaintiff and against Defendants.

ASHBY & GEDDES

/s/ John G. Day

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Dated: October 25, 2005

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FOR THE DISTRICT OF DELAWARE

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DELAWARE, INC., KURT VAN SCOY)	
AND DONNA VAN SCOY)	
)	
Defendants.)	

**[PROPOSED] ORDER GRANTING PLAINTIFF
WAYNE VAN SCOY'S MOTION FOR SUMMARY JUDGMENT
AGAINST DEFENDANTS' CLAIMS OF INVALIDITY AND ABANDONMENT**

This matter comes before the Court on Plaintiff's Motion for Summary Judgment against Defendants' claims of invalidity and abandonment of the marks VAN SCOY DIAMOND MINE including Federal Registration Nos. 1,140,958 and 1,140,711.

Pursuant to Section 56(c) of the Federal Rules of Civil Procedure, there exists no genuine issue of fact material as to Defendants' invalidity and abandonment claims. Furthermore, even when all of evidence and inferences drawn therefrom are viewed in the light most favorable to Defendants, the evidence shows that Defendants cannot establish the existence of every element for which they have the burden of proof at trial. For these reasons, it is hereby

ORDERED and ADJUDGED that this motion is **GRANTED** and that Summary Judgment is hereby entered against Defendants' claims of invalidity and abandonment.

IT IS SO ORDERED

KENT A JORDAN
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of October, 2005, the attached **PLAINTIFF**
WAYNE VAN SCOY'S MOTION FOR SUMMARY JUDGMENT ON
DEFENDANTS' CLAIMS OF INVALIDITY AND ABANDONMENT was served upon
the below-named counsel of record at the address and in the manner indicated:

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VIA U.S. MAIL

/s/ John G. Day

John G. Day (#2403)